IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 12747 of 2000

Between:

K.Radhakrishna, S/o. Satyanarayana,
O/o. Dy.E.E., Hanumakonda R/o.Hanumakonda
Warangal Dist.

..... PETITIONER

AND

1 Thirumal Tirupathi Devasthanams, Tirupathi,
Chittoor District, rep by its Executive Officer,
Tirupathi , Chiottoor Dist.
2 The Chief Engineer, Thirumala Tirupathi Devasthanams, Tirupathi ,
Chittoor District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Memo Roc No.C2/342/CF/99, dated 25-6-1999 issued by the second respondent as arbitrary, discriminatory and illegal and consequently direct the respondents to change the date of the appointment of the petitioner as Asst .Executive Engineer on conversion from the cadre of Asst. Engineer w.e.f. 15-12-1994 and fix the petitioner's seniority in the said cadre w.e.f. 28-5-1992 by giving weightage of 1/3rd of service rendered by the petitioner in Assistant Engineer Cadre and further direct the respondents to promote the petitioner notionally as Dy.Executive Engineer w.e.f. the date of the Juniors to the petitioner were promoted to the said cadre with all other consequential benefits, monetary or otherwise.

Counsel for the Petitioner: MR.V.JAGAPATHI

Counsel for the Respondents: MR.A.K.JAYAPRAKASH RAO

The Court made the following :

ORDER:

Heard Sri Nuti Ram Mohan Rao, the learned counsel appearing for the petitioner and Sri A.K. Jayaprakash Rao, the learned standing counsel appearing on behalf of the respondents.

The petitioner herein, who is working as Assistant Executive Engineer with the respondents, filed this Writ Petition for a writ of Mandamus declaring the impugned proceedings dated
25-06-1999 as illegal and for a direction to consider his case for the notional promotion to the post of Executive Engineer.

The case of the petitioner is that having regard to the subsequent qualifications obtained by the petitioner, he no longer remains un-qualified for the next post or even to that of the Assistant Executive Engineer, and in spite of the said fact, the respondents have not considered his case and no such promotion is being given. Hence, the Writ Petition.

In the additional counter affidavit filed by the first respondent which is

sworn to by the Executive Officer on 16th November, 2004, it is stated that though the petitioner's representation has been with them, however, since no vacancies were available up to April, 1997, consideration of his case does not arise. In the later para, it is stated that one V.Srinivasa Rao, Assistant Executive Engineer resigned and his resignation was accepted in the month of December, 1994. This itself would show that a vacancy arose in December, 1994 itself. Be that as it may, irrespective of the fact whether there was a vacancy in the year 1994 or 1997, the fact remains that the petitioner is entitled to be considered for such post as and when such occasion arises due to the vacancy. Admittedly, the representation filed by the petitioner remained un-considered either for the vacancy which arose in the month of December, 1994 or such other vacancy which arose at any later point of time including those in April, 1997.

In the above circumstances, it is not necessary to go into the merits of the case. It is suffice in the interests of justice to direct the respondents to consider the petitioner's case in such vacancies as stated above and pass orders.

The Writ Petition is, accordingly, disposed of. The entire exercise shall be made within a period of one month from the date of receipt of copy of this order. No costs.

B. PRAKASH RAO, J

17th January, 2005.

DRK/CHVN.

ASSISTANT REGISTRAR.

// TRUE COPY //

SECTION OFFICER.

Copy to

1 The Executive Officer, Thirumal Tirupathi Devasthanams, Tirupathi , Chiottoor Dist.
2 The Chief Engineer, Thirumala Tirupathi Devasthanams Tirupathi , Chittoor District.

3 Two C.D. copies.